

5.

TO THE
Right Honourable
the COUNCILL of STATE,

THE
REMONSTRANCE
OF
Don Alonso de Cárdenas of the Coun-
cell of His Catholick Majesty,
and His Embassador in
ENGLAND.

Right Honourable,



Aving according to the Command of my Master his said Catholick Majesty, lately presented unto your Honours, a Remonstrance on the behalf of severall Spaniards his Subjects; thereby demanding speedy payment of the Summe of 50464 pounds, with the interest and damages for forbearance, due unto them from the Parliament of England, and therein desiring your ultimate Resolution.

To which there hath as yet been no answer given according to desire.

But instead thereof have received from your Honours severall complaints made by severall English Subjects.

Whereof, one is a complaint made by one *Hart Leete* of

of a supposed damage done to his Father and others, by the taking of the Ship *Vineyard* in the year 1605. to the value of 8690 pounds *sterling*, by three Frigots set out by Merchants of *Sardinia*; in which as a private man, the *Conde del Real* had his share.

And for which, as is pretended, although the Complainers had severall sentences for satisfaction in the Courts of Justice in *Spaine*; yet to this day, there hath no satisfaction been made.

And in an Order made by the Honourable House of *Parliament* of the fifth of *Aprill* past; there is besides the said Complaint mention made of other Complaints of like nature, made by Collonel *Manwaring*, *Hawes* and *Partners*, and the Adventurers of the Isle of *Providence*.

Which I conceive, to be no satisfaction to my aforesaid reasonable Demands, nor ought to come at this time to obstruct the payment of the said 50464 pounds and damages, unlesse it be intended, that the *Comerce*, and *Trafficke* betweene the Subjects of *England*, and the Subjects of the Crown of *Spaine*, should be utterly overthrowne; which I shall, as breifly as a Case of so great concernment will give me leave Remonstrate unto you.

And first in the Generall.

IT is to be observed, that the Complaints are of much antiquity, one of them being long before the last War between *Spaine* and *England*; and it cannot be upon any grounds of reason imagin'd, that when the Peace was concluded between the Crownes, there should be a latitude left for the Subjects to be at Wars, as in case of private, Letters of Reprizall granted to private men, for the making of themselves good upon the Subjects of that Prince which did wrong.

But it must be reasonably concluded, that either the Complainers,

mers were before satisfied, or else they might have humbly Petitioned their Prince, for satisfaction to be made them before the Peace concluded.

Besides their hath been since that time severall private Letters of Reprizall granted to severall the Subjects of *England*, for dammages done by them, by the Subjects of the Crown of *Spaine*; and for which, as was pretended by them, they could not receive satisfaction by the Justice of *Spaine*; And had it been true, that the Complainers had received the damage pretended they might as well have had Letters of Reprizall, or might have joyned with others, that were damnified in like nature, in their Letters of Reprizall.

Besides which it is great reason, that private quarrells and differences between Crowns & their Subjects in amity should not be perpetuated to posterity: otherwise it is not possible that Peace made & concluded between them, should be kept & contynned; for the private quarrells between the Subjects must in time make a generall quarrell, between the Nations; and Complaints of this nature, may by the same reason be grounded on injuries done by the Subjects of either Nation, as well twice or thriece forty yeares, as from forty foure yeares, which is the antiquity of this Complaint, and may occasion His Catholicke Ma-jesty, to look back to the pretences in the Raigne of Queen *Elizabeth*, and higher times, to the assurance of daily and new wrongs, and perpetuall differences between the Subjects of either Nation, and mutuall justification of them by fore passed injuries; the instances whereof can-not be wanting, where there is a will to do wrong.

Which I presse the rather since the date of the present pretended injury, is beyond that time, which by the Custome and Law of most Christian Nations, is a time immemoriall, which extends but to forty years.

And it is great reason there should be a time prefixed for all men to prosecute their differences to a period, otherwise, no man can call himself Master of an Estate, since it is impossible for men in all times to have their witnesses and papers ready to justify themselves.

Which reason holds strongly in the case before you, for what an impossibility is it for the stranger who was not privy to the wrong done, and knowes neither parties, matter, or time to answer pretences of this nature.

And to this purpose, I conceive the Five and twentieth Article of the peace concluded between the Crowns was drawn; wherein it is provided in these words, that if any thing shall be attempted or done by the Subjects of either, the attempters, and such as do offend therein only shall be punished, and none other.

I shall not trouble your Honours with the many objections of weight that might be made to the papers of the said *Huer Leare*, delivered in to your Honours: there being many passages therein which were after sentence, and are only allegations *ex parte*, which if material, could not in justice be taken into consideration without a new and full examination of both sides, and a review of the whole process which past in Spain, and upon which the sentences (which the said *Huer Leare* pretendeth and alledgedeth to have obtained in his behalf, and against the *Conde Real*) have been given.

But I shall state the point shere, and cleare upon what is confessed.

And touching the particular complaint of *Lans*, It appeareth by his own Petition, that by the Courts
of

of Law in Spain, Justice was done as far as was possible; for there was two sentences against the *Conde Real*, and the execution if it took no effect, was not the default of Justice or Law, but because the *Conde del Real* was insolvent, he having no Estate (for his person could no more by the Lawes of Spain be touched for debt then an Earls in England) and except Courts of Justice shall not only give judgment but also pay the debt, I know not what more could be desired from the Crown of Spain, and the Law of that Kingdom then was performed.

And I hope it shall be no national quarrel or crime for one of the Nobility to become insolvent, and not able to pay his debts, to whomsoever due.

For the other cases of Col. *Mawaring*, and the Adventurers to the Isle of *Providence*, there is nothing of weight that may deserve an answer; for it appeates by their Petition and allegations, that they know the parties that did the supposed injury, but it doth not appear that ever they took any legall course, either in Spain, Dunkerk, or else-where, against the supposed offenders, and justice was denied them.

Now since themselves omitted to take that course, when the fact was fresh, and the parties and witnesses on both sides living, it cannot be justice to charge a strangeto answer for that he never knew, nor heard of.

Besides it is plainly repugnant to the Articles of the Peace, which provides that no other shall be answerable for the offence then the party, or parties offending as aforesaid.

For which reason, and because I will not trouble the business, nor your Honours with new proofes in the cases before mentioned, but take the matter as it naturally rises from their own papers, now before you, and the Parliament, and your Lordships Ordets.

And also of the case of *Mawaring*, which was long handled in the Parliament, and by order of Parliament

ment

ment, referred to a tryall in the Admiralty Court, where the said *Manwaring* and his Consorts had the help of civill *Lawyers*, and common *Lawyers*, and all possible favour, and yet sentence given against them, and the *Spaniards* given for free. Now if in the *Parliament* they were not found faulty, nor to be any way responsible for damages to *Manwaring*, and Company and afterwards absolved and acquitted by sentence at Law as others, were formerly in the said Court at the suit of *Manwaring*, how can any thing be now imputed to these men or their goods.

And for Letters of marke to be granted against the
2.R.2.1. persons or goods of strangers which are landed here, and have paid Custome. It is without example, and against Law; for that all strangers that come to Trade in this Kingdom, are under the safe-gard and protection of the King. And though a *King* or *State* doth, or may give Letters of Reprizall against Ships or Goods, *super alto mare*, yet it was never seen that any such were ever granted against any goods, in any *Kings* or *Parliaments* Protection and Custody.

Nor shall I insist upon that (although it may be very cleare) that the Master employed in the Ship belonging to the Adventurers of the Isle of *Providence*, was Commissioned from the Adventurers, to take and spoile the Subjects of my Master, as they have done, and although they should pretend they did it beyond the line, yet it is against the 1. and 2. Article of the last Treaty.

All which I conceive to be sufficiently satisfactory for the taking off the pretences of the complainers, were there nothing else in the case.

But the *Parliament* taking notice that there was store of *Plate*, *Cochenill*, and other goods brought into *Southampton*, belonging to strangers in the Ship, *santa clara* did, by Order dated the 26. of *August*, 1642. Reciting. That whereas the said Ship and Lading, being of a great value,

value, in silver and other Commodities, was brought into the Port of Southampton, from the *West Indies*, without the consent of the Proprietors, and that therefore it concerned the High Court of Parliament, both in Honour and justice, to take speciall care that no Subjects of any forraigne State might be wronged by the miscarriage of any Subjects of this Kingdom.

It was therefore ordered by both Houses of Parliament, that the matter should be strictly examined, and that the silver and other goods should be put into safe hands, appointed in the said Order, there to remain se-
cure to be delivered out to the true Proprietors when it should be known, unto whom the *Bullion Coyne* and Goods did belong.

All which did very much suite with the Gravity and Justice of so high a Court, and was much for the Honor of the *English Nation*.

And hereupon being in some hopes that the Plate and Goods would have remained in *specie*, for the Proprietors untill severall Orders and Votes were made by the House of Commons, whereby first the silver amounting to *thirty thousand four hundred sixty four pounds*, was ap-
pointed to be coyned and disposed of.

Next, *ten thousand pounds more* was directed to be bor-
rowed on the Cochenill.

And then all the Goods were to be fold by the Candle, and secured by publique Faith, unlesse the Proprietors and Owners, would lend *20000 l.* which they did, *viz.* *15000 l.* by the Proprietors, and *5000 l.* by the Owners.

And lastly ordered, That the said *twenty Thousand pounds*, together with the aforesaid *Thirty Thousand four hundred sixty four pounds*, should stand instead of bayle for all suits and claimes in the Court of Admiralty.

I shall not mention unto your Honours, wherein these latter

(8)

latter Orders and Votes of the House of Commons, differ from the former recited Order made by both Houses.

But shall only take the advantage by them and the former passages to lift the case before you, out of the reach of the Complainers pretences.

For by what hath bin said before, the question is not so much whither (in case the complainers pretences were true) they ought to be repaired out of the monies now in the Parliaments hands.

As whither my Masters Subjects ought not by the same rule be repaired in Spaine, in case the complainers should have recovered by a legall course.

To conclude, If the pretended injuries had been true, it had been much for the Honour of the Parliament, to have lift the complainers to the ordinary course for their recovery, and not to have given them leave to trouble this busines, in regard of the Parliaments promise and engagement, that the goods should be preserved and secured for the proprietors.

But in case the complainers pretences should be admitted, then my Masters Subjects are tyed up by the aforesaid Actions of the Parliament, from recovering the damage they have and shall sustain, and are made lyable to the satisfying of the pretended damage, which I hope your Honours will not conceive just for the reasons rehearsed, and the Lawes grants Articles and Priviledges following.

1. Article
of
the last
Treaty.

2 Article

It is concluded and accorded, &c. there shall be a good sincere, &c. a league and peace to endure for ever, to be observed and kept as well by Land as Sea, &c.

To prevent all mis-understanding. It is more clearly declared, that no damages and depredations shall be done unto his Catholique Majesties Subjects, as well on this side as beyond the line.

Strangers

Strangers may come to this Kingdom and buy and sell 9.E.3.
freely, and whosoever doth them disturbance shall pay 1.
double damage.

All Strangers may bring Gold and Silver, and shall not 27.E.3.
be unduly disturbed. 4.

That no Merchant Stranger, be impeached for another's 27.E.3.
trespass, or for another's Debt whereof he is not Debtor 17.
or, Pledge, nor Maine-partner.

All Strangers that come to Trade in this Kingdom, 2.R.2.
are under the safeguard and protection of the King, 1.
and who doth them disturbance shall pay double dam-
age.

And by the Charter granted to Merchants strangers,
called *Charta mercatoria* confirmed by so many Kings,
and lastly by this Parliament, it is expressed, folia 31.
quod ipsi aut eorum bona seu mercimonia infra idem regnum et
potestatem pro aliquo debito de quo fidejusores aut principales
debitores non extinerint nec pro aliqua transgressione facta seu
facienda, per aliquos quam ipso non arrestantur nec graven-
tur.

And by the 25. Article of the Peace, That if during this
Peace any thing be attempted, or done by Subjects of ei-
ther, the attemptors and such as do offend therein only,
shall be punished and no other.

And lastly, the Orders of the 26. August and 1. Septem-
ber, 1642. whereby the Honour and Justice of Parlia-
ment, is so deeply engaged for the restoring of the said
mony.

The Orders of 26. and 27. of August 1642. to bring
up the Plate that so it may be kept to the use of the true
owners, to be restored so soone as the Parliament shall
be informed to whom the same shall belong.

An Order of the 7. Sept. 1642. That silver be coyned
to the end the proprietors may have the proceed of the
said Silver so soone as they shall make there right ap-
peare.

I needed not to have set forth more to your Honours for the clearing of this present case, then the said Lawes of this Kingdom, Articles of the Peace, *Charta mercatoria*, and the speciall Orders of both Houses of Parliament.

But least the importunity of the pretenders should prevaile in the seizing, or applying any of these monies for their damages (and that by the same rule these Subjects of the King my Master, should obtaine seizure upon the goods of the Subjects of this Nation in his Domains for their satisfaction, whereby free Comerce might cease, or Trade be quite overthrown). I have been the larger in my exemplifications, that if any breach or distractions in Trade, shall succeed by the carriage of this busines, it may appear to all the world, that it hath not proceeded from any thing intended by the King my Master, nor from me, nor His Subjects, nor accordingly to be imputed to him.

Wherefore, and for what hath so plainly been Remonstrated unto you on the behalf of my Master His Catholick Majesties Subjects; I shall desire their further attendance, in making any more defence to the clai mes and pretence of the said *Huet Leate, Col. Mandwaring, Hawes* and the Adventurers to the *Isle of Providence* may be spared.

And according to my Commission given me from my said Master, I shall once more desire, that there may be speedy payment made of said the 50464. pounds, together with interest due for the forbearance therof unto my Masters Subjects, Petitioning your Honours for the same, or that I may receive your positive answer, that I may returne it and my Masters Subjects left to seek Justice in some other place.

All which, I do the more earnestly preesse, for that it is now near two yeares since that the first Letters came to my hands from His said Majesty, Commanding me to use my utmost diligence in the premisses.

And

And in case I should not preuale to returne suddaine
answer, that according to the great and crying necessi-
ty of His said Subjects, Justice may be done them in
Spaine.

All which notwithstanding, in hopes that in some rea-
sonable time there would be some complyance in the satis-
faction of the said monies whereby a good understand-
ing might be preserved betwixt the two Nations.

I have hitherto adventured, to answer with excuses
builte upon the many urgent occasions, that have
since intervened in the affaires of *England*; whereby
the busynesse could not be intended by the *Parlia-
ment.*

But since my Masters Commands upon me are such,
that excuses will not longer be admitted; Wherefore I
now again as before, earnestly desire a punctuall, and sud-
daine performance of the premisses, or a possitive answer;
wherein I may rest from using any further diligence to
your Honours concerning the Premisses.

FINIS.

071876

caudal fin margin
lateral line scales 138
dorsal fin rays 10
anal fin rays 8
gill rakers 10

